

INDIAN CHILD WELFARE ACT

The Indian Child Welfare Act (ICWA) causes the courts and agencies of Missouri to recognize Indian membership and heritage in two ways: Indian tribes, whenever possible, will have jurisdiction over child custody proceedings; and, legal safeguards are established when child custody proceedings remain with the Missouri Juvenile Court. ICWA emphasizes the role of Native American families in the decision making around the protective needs and placement of their children. ICWA mandates state courts to preserve the integrity and unity of Indian families.

Missouri adheres to the requirements and procedures: protective custody, alternative care placements, pre-adoptive and adoptive placements, voluntary relinquishments, actions to terminate parental rights, and those related to status offenses as outlined by the Act. Cooperation is maintained with the state or tribal court assuming or having jurisdiction over an Native American child when providing services.

ICWA places primary responsibility for administration with the tribal courts. Missouri courts assume secondary responsibility when the tribal court does not take jurisdiction. On many occasions, services are provided jointly with the goal of being responsive to the child and family's Indian heritage and culture. In an effort to increase judiciary compliance with federal ICWA requirements, an ICWA bench card was developed in 2003 by the Office of State Court Administrators for judicial use which outlines the act. The ICWA bench card is also available online for access by any Children's Division staff.

The determination of a child's Native American status is completed as quickly as possible in order to assure rights and privileges of the ICWA are properly afforded to the child and the family. The juvenile office takes the responsibility for this determination. However, if the juvenile office does not assume this responsibility and the child and family is receiving services from the Division, the worker assumes this responsibility. The Children's Division staff receives an overview of this Federal legislation in the initial Child Welfare Practice Training. This training also introduces all Federal legislation that impact state policies.

Over the last five years, the Children's Division has established guidelines to help determine a child's Native American heritage status. Currently, determination about Native American heritage status is only assessed after a child has entered care. Missouri is currently revising policy and the FCS Family Assessment (CD-14) tool to assess the potential for tribal heritage with intact families as well as with families whose children have already entered care. This should assist the agency in being able to identify and plan for possible Native American placement resources much earlier.

Once the status of a child in care has been determined, a contact is made with an Indian Center assigned to serve their geographic area. CD staff may also contact the Bureau of Indian Affairs (BIA) area office in Muskogee, Oklahoma. The child's record reflects Indian tribal information, biological parent information, and the steps taken as directed by the Indian Center. The Indian Centers are bound by confidentiality per Title II Indian Child Welfare Act grantees. The Children's Division recognizes the need to work closely with the Indian Centers to coordinate services and continued cultural/heritage needs that meet the best interest of the child.

Over the past few years, various individuals within the Children's Division central office have been assigned to handle ICWA concerns. In 2004, Missouri appointed a new ICWA liaison whose responsibility is to review current ICWA federal and state policy. This person is also responsible for assisting frontline staff whenever specific ICWA concerns arise. Current plans include internally publicizing the ICWA liaison's name and role to all staff as well the directors of the three Indian Centers.

The Children's Division ICWA liaison currently engages in monthly teleconferences with other State Indian Child Welfare Specialist through the National Resource Center for Information Technology in Child Welfare Child Welfare League of America as a way to keep abreast of national trends, policies, and issues related to Native American populations. Additionally, the agency plans to maintain contact with the three Indian Centers whom provide support to the state.

The three Indian Centers which serve Missouri have outreach programs available. The centers are located in St. Louis, Springfield, and Kansas City. All three Indian Centers have indicated funding needs, but have maintained their existence with grants and donations. Some provide newsletters, domestic violence support groups, teen and youth outings, alcohol and drug counseling, food pantries, clothing assistance as well as education on Indian culture. The centers are listed in the Child Welfare Manual and are available to all Children's Division staff.